

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

GLOBAL MERCHANDISING SERVICES
LTD., a UK private limited company,

Plaintiff,

Civil Action No. 17-cv-10154

-against-

SUNFROG, LLC, a Michigan limited
liability company,

**MOTION TO DISMISS
COMPLAINT**

Oral Argument Requested

Defendant.

MOTION TO DISMISS COMPLAINT

1. Pursuant to Fed. R. Civ. P. 12(b)(3), a party may move to dismiss a complaint for improper venue.
2. Additionally, pursuant to Fed. R. Civ. P. 12(b)(6), a party may move to dismiss a complaint for failure to state a claim upon which relief can be granted.
3. SunFrog hereby moves to dismiss GMS's Complaint for improper venue and failure to state a claim.
4. In support of its Motion, SunFrog asserts that the Southern District of New York has a mere transitory connection to this dispute and that the Central District of California is the proper venue.
5. SunFrog further asserts that GMS's Complaint should be dismissed because its status as an exclusive licensee is insufficient to confer standing to sue for the infringement of a registered trademark.
6. And SunFrog moves to dismiss GMS's Complaint because it has (1) failed to allege infringement with specificity to as to apprise SunFrog of its claims; (2) failed to allege that SunFrog has made a trademark use so as to support a claim for direct infringement; and (3) failed to allege facts sufficient to support a theory of contributory infringement as a matter of law.
7. SunFrog relies on the attached memorandum of law in support of its Motion to Dismiss.

Dated: April 5, 2018

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